

Amendment No. 1 to HB1276

Kernell
Signature of Sponsor

AMEND Senate Bill No. 55*

House Bill No. 1276

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 5, is amended by adding Sections 2 through 5 of this act as new Part 4.

SECTION 2. This part shall be known and may be cited as the "Regulatory Flexibility Act of 2007".

SECTION 3. As used in this part, unless the context otherwise requires:

(1) "Agency" means each state board, commission, department, or officer authorized by law to make regulations or to determine contested cases;

(2) "Licensee" means any person with a license, certificate or registration that is subject to the jurisdiction of a health related board in title 63, a regulatory board in title 62, or a pesticide applicator under the jurisdiction of the department of agriculture;

(3) "Proposed regulation" means a proposal by an agency for a new regulation or for a change in, addition to, or repeal of an existing regulation;

(4) "Regulation" means each agency statement of general applicability, without regard to its designation, that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior regulation, but does not include:

(A) Statements concerning only the internal management of any agency and not affecting private rights or procedures available to the public;

(B) Declaratory rulings; or

(C) Intra-agency or interagency memoranda; and

(5) "Small business" means a business entity, including its affiliates, that is independently owned and operated and employs fewer than five hundred (500) full-time employees or has gross annual sales of less than six million dollars (\$6,000,000).

SECTION 4.

(a) Prior to initiating the rule making process as described in title 4, chapter 5, all agencies shall conduct a review of whether a proposed rule or regulation affects small business or licensees.

(b) Each agency shall, after the effective date of this act, employ a regulatory flexibility analysis utilizing regulatory methods that accomplish the objectives of applicable statutes while minimizing any adverse impact on small business and licensees. The agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed regulation on small businesses and licensees while remaining consistent with health, safety, and well-being:

(1) Consider the extent to which the rule or regulation may overlap, duplicate, or conflict with other federal, state, and local governmental rules;

(2) Strive for clarity, conciseness, and lack of ambiguity in the rule or regulation;

(3) Strive to establish flexible compliance and/or reporting requirements for small businesses and licensees;

(4) Strive to establish friendly schedules or deadlines for compliance and/or reporting requirements for small businesses and licensees;

(5) Strive to consolidate or simplify compliance or reporting requirements for small businesses and licensees;

(6) Strive for the establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed regulation; and

(7) Avoid the unnecessary creation of entry barriers, effects which stifle entrepreneurial activity, or curb innovation, or increase costs.

(c) Prior to the adoption of any proposed rule or regulation that may have an adverse impact on small businesses or licensees, each agency shall notify the department of economic and community development of its intent to adopt the proposed regulation. The department of economic and community development may provide comment which agencies shall consider when promulgating the rule or regulation.

SECTION 5. Prior to the adoption of any proposed regulation that may have an impact on small businesses or licensees; each agency shall prepare an economic impact statement for the secretary of state, attorney general and the house and senate government operations committees that includes the following:

(1) The type or types of small business or licensees and an identification and estimate of the number of small businesses or licensees subject to the proposed regulation and would bear the cost of, and/or directly benefit from the proposed rule;

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record;

(3) A statement of the probable effect on impacted small businesses, licensees and consumers;

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed regulation that may exist, and to what extent, such alternative means might be less burdensome to small business;

(5) A comparison of the proposed rule with any federal or state counterparts; and

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.